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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,432	10/02/2000	James B. McCarthy	110.01130101	3387
7590	10/27/2003		EXAMINER	
Ann M Mueting Mueting Raasch & Gebhardt PO Box 581415 Minneapolis, MN 55458-1415			LUKTON, DAVID	
			ART UNIT	PAPER NUMBER
			1653	

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/600,432	MCCARTHY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David Lukton	1653	

**-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/6/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-11 and 23-36 is/are pending in the application.
- 4a) Of the above claim(s) 23-28 and 30-36 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29 is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |                                                                                                                   |                                                                             |
|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>8/6/03</u> . | 6) <input type="checkbox"/> Other: _____                                    |

Pursuant to the directives of the paper filed 8/6/03, claims 6-11 have been amended, and claims 29-36 added. Claims 6-11, 23-36 are pending. Claims 23-28 remain withdrawn from consideration; claims 30-36 are also withdrawn from consideration. Claims 6-11 are examined in this Office action.

Applicants' arguments filed 8/6/03 have been considered and found persuasive. The previously imposed rejections are withdrawn.

Claim 29 is characterized as allowable.

✱

The following is a quotation of the appropriate paragraphs of 35 U.S.C §102 that form the basis for the rejections under this section made in this action.

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6-11 are rejected under 35 U.S.C. §102(b) as being anticipated by Carraway, R. E. (*Peptides* (New York, NY, United States) 14(1), 37-45, 1993).

Carraway discloses compound #11 (table 2, page 42), which has the following sequence:

**Arg-Arg-Ile-Tyr-Ile-Leu**

Also disclosed is that this peptide exhibits some binding to porcine brain membranes.

The claims encompass any hexapeptide that contains the tripeptide Arg-Ile-Tyr. The

claims therefore encompass the peptide disclosed in Carraway. There is no mention of  $\beta 1$  integrin or  $\alpha 4\beta 1$  integrin in the reference. However, as asserted in the specification, any peptide which contains the tripeptide Arg-Ile-Tyr exhibits this property.

Thus, the claims are anticipated.

\*

Claims 6-11 are rejected under 35 U.S.C. §102(b) as being anticipated by Qi, Jie (*Shengwu Huaxue Zazhi* 13(5), 576-579, 1997).

Qi discloses (page 578) that the following peptide was prepared and tested for inhibition of trypsin catalytic activity:

Ac-Cys-Pro-**Arg-Ile-Tyr**-Asn-NH<sub>2</sub>

There is no mention of  $\beta 1$  integrin or  $\alpha 4\beta 1$  integrin in the reference. However, as asserted in the specification, any peptide which contains the tripeptide Arg-Ile-Tyr exhibits this property.

Thus, the claims are anticipated.

\*

Serial No. 09/600,432  
Art Unit 1653

-4-

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lukton whose telephone number is 703-308-3213. The examiner can normally be reached Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, can be reached at (703) 308-2923. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

*D. Lukton* 10/23/03

*Christopher S. F. Low*  
CHRISTOPHER S. F. LOW  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600